

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----x  
COCHISE SAPP,

Plaintiff,

- against -

OFFICER RIED, #9277; et al.,

Defendants.  
-----x

DOUGLAS F. EATON, United States Magistrate Judge.

Judge Cote referred this case to me solely to hold a settlement conference. I held the conference on April 29, 2008, and I received a follow-up letter from Mr. Sapp dated April 30 and a follow-up telephone call from Assistant Corporation Counsel ("ACC") Hudson on May 8. The parties are unable to reach a settlement; therefore, I am closing the Order of Reference to me, and the parties should address all further correspondence to Judge Cote.

I offer the following advice to Mr. Sapp. On April 20, he mailed a proposed Amended Complaint to ACC Hudson; it sought to add four defendants - - Officers Holiday, Hudson (no relation) and McDonald, and also Warden Bailey. In a May 5 letter to Mr. Sapp, ACC Hudson wrote:

... See Wright v. Smith, 21 F.3d 496, 501 (2d Cir. 1994) (holding that personal involvement of defendants in alleged constitutional violations is a prerequisite to any award of damages under §1983); see also, Colon v. Coughlin, 58 F.3d 865, 873 (2d Cir. 1995) (holding that the bare fact that a defendant occupies a high position in the New York prison hierarchy is insufficient to sustain a claim under §1983).

Should you revise your proposed amended complaint by removing Warden E. Bailey as defendant without making any other changes, we will consent to the amendment.

I strongly advise Mr. Sapp as follows. (a) Cross out the

-1-

USDC SDNY  
DATE SCANNED

5/9/08 *HS*

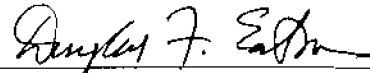
USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 5/9/08

07 Civ. 8266 (DLC) (DFE)

This is not an ECF case

MEMORANDUM AND ORDER

references to Warden Bailey from the caption and text of the Amended Complaint; (b) send the Amended Complaint to the Pro Se Office, along with a copy of today's Memorandum and Order, and request the Pro Se Office to issue summonses for Officers Holiday, Hudson and McDonald and to mail you a service packet. On the other hand, if you want to add the Warden as a defendant, then you will have to make a motion to Judge Cote requesting leave to file an Amended Complaint naming the Warden as a defendant; ACC Hudson will oppose, and you will have to wait for Judge Cote's ruling.



---

DOUGLAS F. EATON  
United States Magistrate Judge  
500 Pearl Street, Room 1360  
New York, New York 10007  
Telephone: (212) 805-6175  
Fax: (212) 805-6181fax

Dated: New York, New York  
May 9, 2008

Copies of this Memorandum and Order are being sent by mail to:

Cochise Sapp (07-A-6552)  
Washington Correctional Facility  
Box 180, Lock 11 Road  
Comstock, NY 12821-0180

Maurice Hudson, Esq.  
New York City Law Department  
100 Church Street  
New York, NY 10007

Pro Se Office

Hon. Denise L. Cote